DRAFT

ENVIRONMENTAL ASSESSMENT

DECKER'S DRAW
ALTERNATIVE LIVESTOCK OPERATION

FEBRUARY, 2000

Montana Fish, Wildlife & Parks
Region 1
490 North Meridian Road
Kalispell, MT 59901

MEPA/NEPA/HB495 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. **Type of Proposed State Action:** Alternative Livestock Operation License

2. **Agency Authority for the Proposed Action:** Montana Fish, Wildlife & Parks

3. **Name of Project:** Decker's Draw

4. **Name, Address and Phone Number of Project Sponsor (if other than the agency):** Donald A. Decker
458 Jackson Meadows Road
P. O. Box 460
Kila, MT 59920 Ph. 755-0615

5. **If Applicable:**

Estimated Construction/Commencement Date: Phase I: Feb., 2000

Estimated Completion Date: Phase I: May, 2000

Current Status of Project Design (% complete): The applicant plans to build in 3 phases, with the first completed this coming spring. Phase II will probably be completed in 2 years. If the operation is profitable, the applicant has indicated he would like to complete Phase III in 4 to 5 years. However, state law requires all projects to be completed within 3 years before undergoing another MEPA analysis.

6. **Location Affected by Proposed Action (county, range and township):** Flathead County, Portions of Sections 12 & 13, T 27 N, R 23 W.

7. **Project Size: Estimate the number of acres that would be directly affected that are currently:**

	Acres		Acres
(a) Developed:		(d) Floodplain.....	
Residential	0		
industrial	0	(e) Productive:	
		irrigated cropland.....	
(b) Open Space/Woodlands/Recreation .	10	dry cropland.....	
		forestry.....	70
• Wetlands/Riparian Areas		rangeland.....	
		other.....	

8. **Map/Site Plan: attach an original 8 ½" x 11" or larger section of the most recent USGS 7.5' series topographic map showing the location and boundaries of the area that would be affected by the proposed action. A different map scale may be substituted if more appropriate or if required by agency rule. If available, a site plan should also be attached.**

9. **Narrative Summary of the Proposed Action or Project Including the Benefits and Purpose of the Proposed Action:**

FWP received an application for an alternative livestock operation license from Donald A. Decker dated September 27, 1999, to construct a 95-acre elk facility in Flathead County (Figure 1). This application was accepted on November 2, 1999, initiating a 120-day review process. The proposed Decker's Draw alternative livestock facility would be located approximately 2½ miles southwest of Kila, Montana. It is located up Jackson Draw, about ½ mile upstream from Ashley Creek and the Smith Lake Waterfowl Production Area. The applicant would live adjacent to the facility year round.

The applicant stated he would like to eventually place a maximum of 50-59 elk within a 95-acre enclosure for the purpose of breeding stock, meat production, antler production, trophy sales, and other uses. The commercial shooting of elk would not occur. During a site visit by FWP on 11/12/99, the applicant stated he would like to make a number of clarifications and corrections to the application. Most importantly, he would like to construct the facility in 3 phases over several years. Construction of Phase I would begin this winter and would involve approximately 15 acres near his residence. Phase II would begin in 2000 or 2001 and would involve approximately 15 acres across a public access road from his residence. If Phases I and II prove profitable, the applicant stated he would like to construct Phase III in 4 - 5 years. Upon completion, it would enclose approximately 50 acres adjacent to Phase I. However, Montana statute (ARM 12.6.1522(5)) states that all construction must be completed within 3 years of acceptance of the application. The number of elk present within the enclosure would be dependent upon the phase of construction completed. The applicant indicated verbally on 11/12/99 that Phase I would involve fewer than 15 animals. Phase II may involve an additional 15 animals. If all 3 phases are constructed, a total of 59 animals may be possible. All phases of construction are addressed in this single EA.

Total acreage to be enclosed would be about 80 acres, rather than the 95 acres specified in the application. This reduction in acreage is due to the deletion of areas with steep terrain, deletion of the area around his residence, the deletion of a powerline corridor along one side of his property, and the establishment of a buffer around the perimeter. This buffer against adjacent landowners will vary in width from 100-300', depending on terrain.

Fence construction would be completed in accordance with requirements of FWP under ARM 12.6.1533. The exterior fence for the enclosures would consist of 8' high Tightlock steel fencing. Fence height on steeper slopes would be at least 10'. A handling facility would be constructed according to DoL standards approximately 100 yards from the residence. Water for the elk would be provided via a domestic well; no streams or other sources of water are available. Supplemental feeding would be kept to a minimum, with some oats being provided on a year-round basis.

The proposed facility would have several interior fences, especially within the area identified for Phase I. There would be 2 and possibly 3 exterior gates for the Phase I and III areas and 1 exterior gate for the Phase II area. In order to move elk across the roadway between the Phase I and II areas, the applicant is proposing to install large, double, swinging gates on either side of the roadway that would form a connecting corridor across the road when opened. Each of the double, swinging gates will have to be at least 15' long in order to span the 30' roadway. Besides the applicant and his family, only one other family currently uses the privately owned road for access.

The habitat for the proposed project area is primarily forested, with scattered grasslands on a southerly slope of gentle to moderate steepness. Tree species are primarily Douglas fir, with Ponderosa pine and western larch interspersed. Timber harvesting has been the main economic use of the area. Average maximum tree height throughout the project area is 50-70'. Some thinning of trees within the project area has recently occurred and will continue to occur.

The understory within the proposed project area is currently comprised primarily of various bunchgrasses and Pinegrass (*Calamagrostis* spp.) With the exception of Snowberry (*Symphoricarpus albus*), few shrubs are present. In accordance with Montana's Open Range Law, some cattle grazing within the project area currently occurs.

Residences in the area are new and scattered. Only 2-3 residences currently occur within 300 yards of the proposed project area. Plum Creek Timber Company, Inc., is the largest adjacent landowner. The extent of future subdividing is unknown, but not expected to be great.

White-tailed deer and elk currently use the area on a year-round basis. Use by these species increases during the winter months. Mule deer may also use the area for winter range, especially during severe winters. Black bears and mountain lions also frequent the area.

10. **Listing of any Other Local, State, or Federal Agency That has Overlapping or Additional Jurisdiction:**

(a) **Permits:**

Agency Name	Permit	Date Filed/#
Dept. of Livestock	Approval of quarantine & handling facility	Pending

(b) **Funding:**

Agency Name	Funding Amount
None	

(c) **Other Overlapping or Additional Jurisdictional Responsibilities:**

Agency Name	Type of Responsibility
Montana Dept. of Livestock	disease control
Montana Dept. of Environmental Quality (DEQ)	water and air quality, waste management
Montana State Historical Preservation Office (SHPO)	cultural resources
Montana Dept. of Natural Resources And Conservation (DNRC)	water rights
Natural Resource Conservation Service (NRCS)	soil conservation
Flathead County Weed Control District	weed control
Flathead County Tax Department	

11. **List of Agencies Consulted During Preparation of the EA:**

Department of Livestock

Flathead County Tax Department

PART II. ENVIRONMENTAL REVIEW

1. Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. LAND RESOURCES Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce productivity or fertility?			X		Yes	1(b)
c. Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other (list)						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

AFFECTED ENVIRONMENT: The proposed Decker's Draw alternative livestock facility will consist of an enclosure of approximately 80 acres located on 95 acres of privately owned land approximately 2 miles southwest of Kila, Montana. It is located up Jackson Draw, about ½ mile uphill from Ashley Creek and the Smith Lake Waterfowl Production Area. Slopes in the area are gentle to moderate in steepness and are primarily forested, with small, grassy openings. Soils in the area appear to be well drained, reducing run-off potential. There are no creeks or other sources of surface water within the project area. Residences in the area are scattered.

PROPOSED ACTION: 1(b) Approval of the alternative livestock permit application is expected to have only minor impacts to land and soil resources. The primary impact would be associated with the water erosion potential where soil becomes exposed. This situation could occur if the stocking rate causes bare ground to be exposed for an extended period of time.

NO ACTION: Under the "No Action" alternative, the current condition of the property would not change.

CUMULATIVE EFFECTS: As the site is currently used primarily for agricultural production, the cumulative effect of using the proposed area for rearing of captive elk is expected to be slight. The proposed facility does not contain any unique or significant soil or land resources that would be lost due to the proposed land use change.

REQUIRED STIPULATIONS: None.

RECOMMENDED MITIGATION MEASURES: It is recommended that a reasonable stocking rate be maintained within the enclosures to minimize changes in soil structure and potential increases in runoff and erosion from disturbed ground. Areas with exposed soils should be revegetated promptly.

REQUIRED STIPULATIONS: None

2. AIR Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Emission of air pollutants or deterioration of ambient air quality? (also see 13 (c))		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
f. Other						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Air Resources (Attach additional pages of narrative if needed):

AFFECTED ENVIRONMENT: Lands surrounding the proposed Decker's Draw alternative livestock facility are primarily forested. The area is sparsely populated with no apparent air quality problems.

PROPOSED ACTION: Residences in the area are sufficiently scattered so that any odors associated with the facility are not expected to be a problem, especially if a reasonable stocking rate is maintained.

NO ACTION: The odors associated with the current level of cattle grazing would remain the same.

CUMULATIVE EFFECTS: As the site is already used for timber production, the cumulative effect of the elk operation is expected to be minimal.

REQUIRED STIPULATIONS: None.

COMMENTS: Odors are not expected to be of significant concern at the proposed site due to the sparse human population in this area.

3. WATER Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?			X		Yes	3(a)
b. Changes in drainage patterns or the rate and amount of surface runoff?			X		Yes	3(b)
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?			X		Yes	3(c)
I. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?			X		Yes	3(k)
n. Other: _____						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):

AFFECTED ENVIRONMENT: The proposed facility is located approximately ½ mile uphill from Ashley Creek and Smith Lake Waterfowl Production Area. No surface water occurs within the project area. Drinking water for the elk would be provided from a domestic well. There are no plans to irrigate within the enclosure. There is some potential that spring runoff from the proposed facility might reach Ashley Creek via Jackson Draw.

PROPOSED ACTION: 3(a, b, c, k). A maximum stocking rate of 50-59 elk on all three phases of the proposed facility may lead to soil compaction and increased runoff, especially during spring and immediately following heavy rains. This will be especially true in areas where elk congregate or if large numbers are confined in small internal enclosures. Most of the surface water from the enclosure is drained by Jackson Draw, which eventually empties into Ashley Creek. Fecal contamination may lead to increased nitrogen levels in surface runoff. However, it is doubtful an increase in nitrogen would be detectable in Ashley Creek as a result of this facility. Given the planned stocking level, it is also doubtful area wells would be threatened by fecal contamination. Stocking levels in the various enclosures should be monitored to ensure that excessive compaction and baring of soil does not occur.

NO ACTION: Current hydrologic conditions are not expected to change under the "No Action" alternative.

CUMULATIVE EFFECTS: The general area is used for logging and grazing. These activities likely have minor effects on water quality due to increased sedimentation and nutrient loading. Use of the land to raise elk is not expected to significantly change hydrologic conditions at the site. Therefore, the cumulative effect of using the approximately 80-acre site for the rearing of captive elk would not likely cause cumulative effects on water resources.

COMMENTS: The Department of Environmental Quality (DEQ) administers and enforces water quality laws (e.g. Clean Water Act and Montana Water Quality Act) relating to pollution from point and nonpoint sources. If vegetative cover is reduced

significantly, the operation could meet the definition of a "concentrated animal feeding operation" (CAFO) (ARM 17.30.1304(3)). However, a CAFO permit is not expected to be required.

REQUIRED STIPULATIONS: None.

RECOMMENDED MITIGATION MEASURES:

- Maintain a reasonable stocking rate in the proposed facility to mitigate potential impacts from erosion and fecal matter. Dispose of dead animals according to county waste regulations.
- Control surface water discharges from the proposed site, if they occur, by employing Best Management Practices (BMPs) where runoff might enter Jackson Draw. The BMPs may include earthen berms, vegetative buffer zones, straw bale dikes, or silt fences. The booklet "Common Sense and Water Quality , a Handbook for Livestock Producers" (Montana Department of Heath and Environmental Sciences, 1994) is recommended for further mitigation measures.

4. VEGETATION Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?			X		Yes	4(a)
b. Alteration of a plant community?			X		Yes	4(b)
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?			X		Yes	4(e)
g. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

AFFECTED ENVIRONMENT: The proposed facility is primarily forested, with some grassy openings comprised primarily of various bunchgrasses and pinegrass. Timber harvesting has been a primary use of the area in the past and the additional removal of trees is planned. However, with the year-round presence of captive elk, the natural regeneration of trees will be reduced. Gradually, the area will convert to a more grass-dominated habitat. Noxious weeds such as knapweed, thistle, and mullein are likely to increase above current levels due to the continuous effects of grazing. There are no known federally listed, threatened, or endangered plant species within the project area.

PROPOSED ACTION: 4 (a, b, e). The presence of 50-59 head of elk within an 80-acre enclosure would undoubtedly affect plant species composition and abundance, especially if supplemental feeding does not occur. Even though the applicant has stated plans to conduct additional thinning operations within the project area, the additional forage produced will be insufficient if such a large herd is maintained. If elk numbers are maintained at much lower numbers (as the applicant has indicated), associated impacts on plant species and diversity will be considerably less. Should supplemental feeding occur, only high-quality hay or pellets are recommended to minimize the introduction of exotic weeds. An aggressive weed control program should be a part of this, or any, ranching operation.

NO ACTION: Current vegetative communities are not expected to change appreciably unless noxious weeds invade and become dominant.

CUMULATIVE EFFECTS: There are no anticipated cumulative effects on vegetation resources associated with the proposed project.

REQUIRED STIPULATIONS: None.

RECOMMENDED MITIGATION MEASURES:

- Monitor the proposed alternative livestock site for invasion of noxious weeds and treat affected areas in a timely manner by implementing a noxious weed control program.
- Supplemental feed and minerals should be provided to the elk on a seasonal basis to reduce excessive grazing on preferred pasture plants.

5. FISH/WILDLIFE Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Deterioration of critical fish or wildlife habitat?			X	No	No	5(a)
b. Changes in the diversity or abundance of game animals or bird species?			X			5(b)
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?			X			5(e)
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

AFFECTED ENVIRONMENT: White-tailed deer and elk currently use the proposed site on a year-round basis, with use increasing during the winter months. Mule deer may also use the area for winter range, especially during severe winters. Black bears and mountain lions reside in the general area and undoubtedly frequent the project site. Gray wolves, bald eagles, and peregrine falcons are Federally listed as threatened or endangered and may be transient through the area.

PROPOSED ACTION: 5 (a, b, e). The establishment of an alternative livestock facility will exclude wild deer and elk from using approximately 80 acres of habitat that is currently used by them if all three phases of the proposed facility are constructed. The exclusion of wild animals from this area will slightly reduce carrying capacity, but not to a level that is noticeable. The movements of individual animals may be altered, but little or no effect on the movement of wild deer and elk herds is expected. No effects are expected on threatened or endangered species.

There is a possibility that wild deer or elk could enter the proposed facility, especially during periods of deep snow accumulation or drifting in winter. Deer have also been documented to crawl under game-proof fencing at sites dug by coyotes. Wild elk may be attracted to the domestic elk and may try to enter the facility, especially during the mating season. Wild deer and elk entering the proposed facility would likely be destroyed rather than released back to the wild in an effort to reduce any chance of disease transmission to wild herds.

A secondary concern regarding the escape of captive elk involves the potential for interbreeding of captive elk that have red deer genes with wild elk. Red deer are not native to North America and still occur on some alternative livestock operations in

Montana, even though efforts are underway to eliminate their presence with testing and eventual removal. Should wild elk interbreed with captive elk that have red deer genes, there is some concern that their progeny will negatively affect wild populations. In addition to concerns regarding the interbreeding of wild elk with captive elk that have red deer genes, there are also concerns that captive elk that do not carry red deer genes may negatively affect wild populations if interbreeding occurs. For example, problems may arise with delayed breeding cycles and calving periods due to selective breeding.

DoL has offered additional comments regarding the issue of red deer hybridization with wild elk. Following is an excerpt:

> "The Department of Livestock and the Department of Fish, Wildlife and Parks have administrative rules in place requiring all elk on alternative livestock operations in Montana that are born on or prior to December 31, 1999, be tested for elk-red deer hybridization by January 1, 2000. In addition, all elk born between January 1, 2000, and December 31, 2001, shall be tested for elk-red deer hybridization by January 1 of the year following the year of birth, or when the animal is sold or transported from the alternative livestock operation, whichever comes first. Any elk-red deer hybrid that is detected must be neutered, slaughtered or sold out of state. These regulations mitigate the concern for potential hybridization because all elk purchased by the applicant would be tested prior to transport to the proposed alternative livestock ranch. Moreover, the fencing requirements and suggested mitigation measures would limit the potential for ingress and egress."

During the 1999 Montana Legislative Session, the Montana Legislature adopted a series of measures referred to as "Negotiated Rules" that related to alternative livestock issues. One of the measures included a provision that excluded the ingress of bears and mountain lions into captive facilities as grounds for revocation of a license. Should bears, lions, or other predators enter the facility, they will likely be live-captured and removed rather than destroyed.

NO ACTION: No wildlife-related impacts are expected to occur under the "No Action" alternative. Use of the area for timber production and grazing would continue.

CUMULATIVE EFFECTS: There are no anticipated cumulative effects on wildlife resources associated with this proposed project.

REQUIRED STIPULATIONS: In order to reduce the potential for ingress or egress, the following is required:

(1) *Monitor the perimeter fence on a daily basis and immediately after major snow and wind events to ensure fence integrity is maintained.*

If fence integrity becomes a problem, adjustment of fence requirements to include double fencing, electrification, or increased height may become necessary.

RECOMMENDED MITIGATION MEASURES: The following management practices will help to minimize impacts to free-ranging wildlife species. Implementation of these mitigation measures, most of which are standard practices, is highly recommended.

- Store hay, feed, or salt away from exterior fences or enclosed in bear-resistant containers or buildings.
- Feed captive elk at interior portions of the enclosure and not along the perimeter fence. Extra caution should be taken to limit the exposure of animal feeds to bears.
- Remove excess fecal material and waste feed from the alternative livestock facility and deposit at an approved site not likely to be used by humans or domestic or wild animals.

In addition, DOL recommends the following:

"Portions of the exterior fence that bisect slopes of 20 to 40% steepness should be constructed to a height of at least 10 feet, as the applicant has agreed to do."

PROVIDE NARRATIVE DESCRIPTION FOR THE FOLLOWING:

1). **Wildlife use of the area and potential for through-the-fence contact with alternative livestock (consider year-round use, traditional seasonal habitat use, and location of travel routes and migration corridors).**

Given the year-round use of the area by white-tailed deer and elk, the potential for nose-to-nose contact through the fence is considerable and increases during the winter months. This risk of contact can be reduced by feeding domestic elk at interior portions of enclosures rather than along exterior fences and by closely monitoring exterior fences on a daily basis.

In addition, DoL states:

> "The frequency of fenceline contact between domestic elk and wildlife and the risk that this contact might result in disease transmission is mitigated by disease testing requirements. In order for disease transmission to occur, the organism causing the disease needs to be present. Any alternative livestock introduced to this proposed facility will be tested disease-free prior to movement to the facility."

2). **Potential for escape of alternative livestock or ingress of wildlife (consider site-specific factors that could reduce the effectiveness of perimeter fences built to the standards outlines in Rule 12.6.1503A, including steepness of terrain, winter snow depths/drifting, susceptibility of fences to flood damage, etc.).**

The majority of the proposed facility is forested, as is the surrounding area. While all noticeable trees susceptible to wind-throw have been or will be removed from the fence perimeter, hundreds of trees will remain that could strike and damage the fence during periods of high winds or major rain and snow events. During the winter of 1996-97, snow depths in the area reached 3-4' deep, although that winter was considered by some meteorologists as a 1-in-300-year event. Typically, winter snow depths in this area are less than 16 inches. However, blowing and drifting snow could be a concern during many of western Montana's winters.

Portions of the exterior fence will bisect slopes of moderate (20-40%) steepness. The applicant has agreed to construct fences at least 10' high in those areas. Under normal conditions, this will help to prevent ingress or egress. Should blowing and drifting snow become an immediate concern, snow removal along the majority of the exterior fence will not be possible due to slope steepness.

Another area of concern regarding potential egress involves the moving of captive elk across a public access road between the Phase I and II areas. Large, double gates at least 15' in width will be necessary to span the 30' road. These gates will act as a connecting corridor across the road and between the 2 pastures when all 4 gates are opened and locked in place. Special care must be taken so that there are no spaces under the gates in the ditches when opened. Also, opening the gates, moving the elk, and then closing the gates must be done quickly to reduce chances of escape. The applicant may have to coordinate the moving of elk between these 2 pastures with neighbors so as to prevent any undue delays with their use of the road. However, at present, only one other family would be potentially inconvenienced by such delays. Several people may be necessary to safely and quickly move elk from one pasture to another.

3). **Proportion (%) of the total habitat area currently used by wildlife that will be enclosed or otherwise impacted.**

Wildlife currently use many thousands of acres in the area, even during the more restricted winter months. The proportion of habitat excluded by the proposed facility constitutes far less than 1% of the area.

B. HUMAN ENVIRONMENT

6. NOISE/ELECTRICAL EFFECTS Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Increases in existing noise levels?		X				
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other: _____						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

PROPOSED ACTION: No impacts to existing noise levels are expected, except from bull elk bugling during the mating season. Given the few number of close neighbors in the vicinity, this is not expected to be a problem.

NO ACTION: No impacts to existing noise levels are expected.

COMMENTS: None

REQUIRED STIPULATIONS: None.

RECOMMENDED MITIGATION MEASURES: None.

7. LAND USE Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Conflict with any existing land use that would be adversely affected by the proposed action?			X		No	7(d)
e. Adverse effects on or relocation of residences?			X		No	7(e)
f. Other: _____						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

AFFECTED ENVIRONMENT: Plum Creek Timber Company and relatively large blocks of private land (>20 acres) dominate the area. This general area has been primarily used for timber harvesting and cattle grazing in the past.

PROPOSED ACTION: 7 (d, e) While some level of timber management within the enclosure will undoubtedly continue into the future, the open grazing of the area by cattle will be prevented on approximately 80 acres with the construction of the game-proof fence. One of the neighbors located on the east side of the proposed facility may have the 8' Tightlock fence within view of his residence. Fence visibility may or may not be a concern for area residents. The 100-300' buffer the applicant plans for around the exterior fence, plus the exclusion of a powerline corridor, greatly reduces the potential for conflicts with adjacent landowners.

NO ACTION: Under the "No Action" alternative, historic uses for the area (timber harvesting and cattle grazing) will likely continue.

COMMENTS: None

REQUIRED STIPULATIONS: None

RECOMMENDED MITIGATION MEASURES: None.

8. RISK/HEALTH HAZARDS Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Risk of dispersal of hazardous substances (including, but not limited to chemicals, pathogens, or radiation) in the event of an accident or other forms of disruption?			X		Yes	8a
b. Creation of any hazard or potential hazard to domestic livestock.			X		Yes	8b
c. Increased risk of ingress/egress resulting in contact and/or disease between alternative livestock and wild game.			X		Yes	8c
d. Creation of any hazard or potential hazard to human health.		X				
e. Other: _____						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

PROPOSED ACTION: 8. (a). There is a potential for elk to carry or become infected with contagious diseases or parasites that are transmissible to other animals. Examples of diseases include Bovine Tuberculosis, Brucellosis, and Chronic Wasting Disease (CWD). Contact between captive animals and wild deer and elk may result in these diseases being spread to wild populations. Spread of a contagious disease may directly or indirectly (depending on the nature of the disease) affect the human environment by reducing the number of wild deer and elk available for hunting and viewing, or exposing hunters to diseases which are contagious to hunters as well.

DoL has offered additional comments regarding the issue of disease transmission. Following is an excerpt:

> "Transmission would be dependent upon the occurrence of diseased animals on the alternative livestock ranch and the frequency of contact between captive and wild animals. Current regulations are intended to identify and isolate captive herds that may include infected animals. Regulations preclude the sale of animals from these captive herds. Regulations also are intended to limit contact between captive and wild animals."

The Montana Department of Livestock (DoL) currently conducts disease monitoring and testing for brucellosis and tuberculosis. However, there is no definitive test for CWD in live animals. Alternative livestock operators who have elk die for any reason are required to have the dead animals tested for CWD within 24 hours. CWD has an extremely long incubation period (17 months to several years), and the mode of transmission is unknown. Therefore, the potential for transmission by soil, water, or other media cannot be determined at this time.

In addition, DoL states:

> "Bovine Tuberculosis has occurred on six alternative livestock ranches in Montana. Transmission from those ranches to other ranches and wildlife was prevented by acceptable test protocols, depopulation and on-going surveillance. From 1991 through 1995, all cervids on 73 alternative livestock ranches were tested for tuberculosis. Wildlife populations were sampled in areas adjacent to those ranches and three cases (one mule deer and two coyotes) of tuberculosis were discovered in wild animals.
>
> Tuberculosis is a disease that can affect cervid species. At this time, Montana is classified as a Tuberculosis Accredited Free State; this disease does not exist in alternative livestock or traditional livestock in Montana. During fiscal year 1999, 1,338 tuberculosis tests were performed on alternative livestock. There are currently six alternative livestock operations in Montana that have completed the three year herd test protocol and have received Tuberculosis Free Accreditation status from USDA and the State Veterinarian. There are two additional herds that have done testing that may qualify for accredited herd status. This accreditation requires all animals 12 months and older be tested negative to tuberculosis for three consecutive years, with no additions to the herd that are not of equal or greater status. The

Department of Livestock (DoL) tuberculosis regulations require all cervidae over 6 months of age moved from one alternative livestock operation to another to be tested negative to tuberculosis within 90 days of that movement. The tuberculosis regulations also provide for disease control pursuant to the provisions of Title 9 CFR part 77 and tuberculosis eradication method and rules. Prior to import into Montana, all cervid species must have a negative tuberculosis test within 90 days of entry and originate directly from a herd that has been tested negative in its entirety within the last 12 months using approved test methods. Animals that do not originate from an accredited herd or a herd that has been tested within the previous 365 days must pass two negative tests 90 days apart.

Brucellosis has not occurred on any alternative livestock ranches in Montana.

Brucellosis is a disease that can affect cervid species. At this time, Montana is classified as a Brucellosis Class Free State; this disease does not exist in alternative livestock or traditional livestock in Montana. During fiscal year 1999, 1,345 brucellosis tests were done on alternative livestock. There are currently two Montana alternative livestock herds that have achieved Brucellosis Certified Free status. This certification requires all animals 12 months and older be tested negative to brucellosis for three consecutive years, with no additions to the herd that are not of equal or greater status. There are two additional herds that have done testing that may qualify them for certified herd status. The Department of Livestock (DoL) brucellosis regulations require change of ownership testing in Montana on all elk over 6 months of age capable of breeding. The brucellosis regulations also provide for department ordered testing for the presence of brucellosis at any time, if it considers such tests necessary, to prevent the introduction or spread of the disease. These regulations also provide procedures upon detection of brucellosis. Prior to importation into Montana, all cervid species must originate from a certified brucellosis free herd and must not have co-mingled with animals of lesser status. Animals that do not originate from a certified herd must be tested (using two types of approved tests) within 30 days of shipment and the animals must be quarantined upon arrival in Montana and retested 30-120 days after entry."

One case of CWD has been confirmed in a Montana alternative livestock facility thus far. In this particular case, all of the remaining elk were destroyed, with tissue samples taken for further testing. The elk carcasses and other items such as feed bunks were incinerated on site. Montana Fish, Wildlife and Parks plans to shoot a number of wild deer in the area for further testing to determine if the disease has spread to wild populations. It is unknown when the facility will be safe or available for other uses.

In addition, DoL states:

"Chronic wasting disease (CWD) has been detected in alternative livestock and free-ranging deer and elk in several states or provinces. CWD has been affecting wild deer and elk in Colorado and Wyoming for at least 17 years. Through the surveillance placed on all alternative livestock operations by the Department of Livestock in April 1999, one case of CWD was detected in a Montana alternative livestock facility. The CWD affected herd was depopulated. All Montana alternative livestock 16 months of age or older that die, are subject to mandatory testing for CWD. Since CWD surveillance of Montana alternative livestock began in April 1999, over 336 animals have tested negative. One animal died from the disease and three others had brain lesions associated with the disease, all four animals were located at the depopulated herd. Risk of disease transmission can be mitigated through the existing CWD surveillance of Montana alternative livestock. The Department of Livestock's CWD regulations provide requirements for mandatory surveillance; establishing monitored herd status; management of herds identified as trace herds; management of herds with an animal diagnosed with CWD; and enhancement of trace back and observation capabilities. Requirements for captive cervidae owned by or in the possession of zoos, individuals or other public facilities not licensed as an alternative livestock operation are also addressed. In addition, all alternative livestock that are imported must be from a herd that has completed a minimum of two years of surveillance for CWD, with no cases of CWD in the exporting herd or herds the exporting herd received elk from. The mandatory two years of CWD surveillance prior to importation into Montana minimizes the risk of introduction of additional cases into Montana.

Definitive information regarding the causative agent, persistence, incubation period, mode of transmission and effective measures to eliminate the disease or prevent future contaminations of CWD is lacking. Preliminary studies by Dr. Beth Williams suggest that transmission requires close contact and repeated exposures. Transmission is more likely to occur late in the course of the disease.

The consequences of an outbreak of CWD in wildlife also are not known. According to Colorado and Wyoming wildlife officials, in those areas in Colorado and Wyoming where CWD is endemic, the average infection rate is 8% in mule deer and less than 1% in elk.

The risk of disease being passed from captive to wild elk is reduced if fence integrity is maintained and appropriate mitigation measures are followed. The potential for disease transmission is also mitigated through DoL disease testing and surveillance requirements. All animals to be placed within this facility are required to be tested for tuberculosis at the time of import, purchase, and/or transportation to the facility. A test for brucellosis is required for all game farm animals that are sold or moved within the state and is required for all game farm animals imported into Montana. Montana is presently a tuberculosis-free and brucellosis-free state (i.e. these diseases have not been diagnosed in domestic livestock). Each game farm is required to have access to an isolation pen (quarantine facility) on the game farm or an approved quarantine plan to isolate any animals that are imported or become ill. The state veterinarian can require additional testing and place herds under strict quarantine, should problems arise.

In addition to the standard requirements for alternative livestock ranches and the additional stipulations and suggested mitigation measures proposed in this EA, it should be noted that there are significant economic incentives for the applicant to follow best management practices. The inadvertent acquisition of diseased animals would risk a substantial investment in breeding stock and the facilities required to maintain those animals."

8. (b). Infectious diseases can potentially be transmitted between elk and domestic livestock. If brucellosis or tuberculosis should occur in alternative livestock, it could potentially be transmitted to livestock. CWD was first detected in a captive research facility in Colorado in 1967. In 1981, it was first detected in nearby wild, free-ranging elk. It has been a known wildlife disease in Wyoming and Colorado for 17 years. There is no evidence thus far of CWD transmission to livestock.

In addition, DoL states:

> "At present, brucellosis affected elk herds occur in the vicinity of Yellowstone National Park. However, there are no known occurrences of livestock diseases in wild deer and elk in the vicinity of the proposed alternative livestock ranch. While transmission of brucellosis and tuberculosis from cervids to domestic livestock is possible, there is no evidence thus far of CWD transmission to livestock."

8. (c). Standard fencing requirements, including the construction of fence that is at least 10 feet high on portions of the exterior fence that bisect slopes of 20 to 40% steepness, as the applicant has agreed to do, and the daily monitoring stipulations should be sufficient to preclude ingress and egress.

8. (d). There is some risk of infection to hunters who field dress deer or elk infected with tuberculosis or brucellosis. The risk of CWD transmission to humans is unknown, but probably minimal. Hunters routinely kill wild mule deer and elk in areas of Wyoming and Colorado where CWD is known to occur. To date, there have been no confirmed cases of CWD transmission to humans.

NO ACTION: Risk/health hazards would not occur from the "No Action" alternative, other than those associated with the existing land use.

COMMENTS: None

REQUIRED STIPULATIONS: See Fish and Wildlife Section, page 9.

RECOMMENDED MITIGATION MEASURES: See Fish and Wildlife Section, page 9.

9. COMMUNITY IMPACT Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Changes in historic or traditional recreational use of an area?		X				
f. Changes in existing public benefits provided by affected wildlife populations and wildlife habitats (educational, cultural or historic)?			X		No	9(f)
g. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				
h. Other: _____						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

PROPOSED ACTION: 9. (f). Some local residents may feel that the licensing of the proposed operation will decrease their quality of life. Neighbors harboring negative feelings about the proposed operation would perceive a loss in their sense of social well being.

NO ACTION: Although there would be no alternative livestock facility with the "No Action" alternative, some social impacts may have already occurred through the permitting process. The potential of approving this facility may have fractionalized some segments of the local community based on their support or opposition to alternative livestock facilities. Denial of this operation would be welcomed by those opposed to it and, as a result, they may consider the quality of their lives was preserved. Anger and frustration, however, may be harbored by people who favor facilities such as this if the permit is denied. This may increase the social distance between individuals or groups who oppose the facility vs. those who favor it. Lawsuits could result from either side of the issue, expending both time and money.

CUMULATIVE EFFECTS: No cumulative impacts are anticipated on communities from operation of the proposed facility.

COMMENTS: No mitigation measures are recommended.

10. PUBLIC SERVICES/TAXES/UTILITIES Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:			X		No	10(a)
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased used of any energy source?		X				
g. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

AFFECTED ENVIRONMENT: The applicant currently pays taxes for the land included in the proposed Decker's Draw alternative livestock operation. Property taxes would increase slightly with the rearing of captive elk.

PROPOSED ACTION: 10 (a, b). Approval of the alternative livestock license would increase the time and expense spent by FWP and DoL personnel inspecting, monitoring, and responding to potential problems or complaints. Since neither FWP nor DoL has the option of hiring additional employees to handle the increased workload that will be created by this operation, activities of the current wildlife, enforcement, and support staff would need to be redirected from other important duties to meet the increased demand created by this proposed operation.

10 (b). Placement of elk in the proposed facility would increase the applicant's annual tax contribution to the county by several hundred dollars, depending on the number of elk at the facility, their sex, and age. Most alternative livestock facilities in Montana to date have not cost the state a lot of money in terms of their normal operations. However, with the recent discovery of CWD on a game farm near Phillipsburg, in excess of $50,000 has been spent thus far in an effort to eradicate the disease, which included payments for the elk, testing for disease, and incineration of the carcasses and other items. Additional costs are expected before the land is deemed safe for other uses.

NO ACTION: Under the "No Action" alternative, FWP would not have to inspect and monitor this facility. Costs to FWP and DoL would not exceed what was already spent in the preparation of this EA. The current status of tax payments for this property would remain.

CUMULATIVE EFFECTS: Some cumulative impacts are expected on public services and taxes from the proposed facility project under normal operations. Region 1 has more alternative livestock facilities than any other region within Montana; currently there are 34 active facilities. In recent years, FWP has contracted with Maxim Technologies, Inc., in the preparation of the Environmental Assessments. Depending on size and complexity, the cost paid by FWP to Maxim has varied from $5,000 - $8,000. All costs incurred by FWP in the licensing, regulation, and management of alternative livestock facilities is funded by money derived from the sale of hunting and fishing licenses.

COMMENTS: No mitigation measures are recommended.

11. AESTHETICS/RECREATION Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?			X	No	No	11(a)
b. Alteration of the aesthetic character of a community or neighborhood?			X	No	No	11(b)
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report)		X				
e. Other: _____						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

AFFECTED ENVIRONMENT: The proposed facility is located on a private road approximately 2 ½ miles from Kila. Houses in the area are scattered. Grazing is an historic use of the area.

PROPOSED ACTION: 11 (a, b). The visual character of the area may change as a result of the 8-10 foot high fence that would be constructed around the perimeter of the proposed facility. This impact would be most directed at persons residing within the immediate area. This impact is expected to be minor. Alternatively, persons residing in the area may enjoy seeing and hearing elk at the facility.

NO ACTION: No adverse impacts to aesthetics or recreation are expected under the "No Action" alternative.

COMMENTS: No mitigation measures are recommended.

12. CULTURAL/HISTORICAL RESOURCES Will the proposed action result in:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Destruction or alteration of any site structure or object of prehistoric historic, or paleontological importance?		X				
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
e. Other: _____						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

PROPOSED ACTION: No cultural or historical resources are known to occur at the site of the proposed facility. With the exception of fence construction and monitoring, little soil disturbance will occur beyond what normally occurs with selective timber harvesting operations.

NO ACTION: No impacts to cultural resources are expected under the "No Action" alternative.

COMMENTS: If archaeological artifacts are observed during construction of the Tightlock fence or from other activities, work should stop in the area and the discovery reported to:

Montana Historical Society; Historic Preservation Office
1410 8th Avenue
P.O. Box 201202
Helena, MT 59620
Phone (406) 444-7715

If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object. Take photos and preserve the artifact(s).

SIGNIFICANCE CRITERIA

13. SUMMARY EVALUATION OF SIGNIFICANCE Will the proposed action, considered as a whole:	IMPACT				Can Impact Be Mitigated	Comment Index
	Unknown	None	Minor	Potentially Significant		
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources, which create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?			X		Yes	13b
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):

PROPOSED ACTION:

Because this section deals primarily with disease issues, DoL completed this section and offers the following comments:

"13(b) Refer to discussion in section 8.

13(d) Precedent for the permitting of alternative livestock ranches with the knowledge that there are some uncertainties about the potential risk of disease transmission between captive and wild animals already is established. The alternative livestock industry is established in Montana and the legislature recognizes that the production of alternative livestock provides a viable economic opportunity for any private property owner as well as the traditional livestock producers who are interested in diversifying their ranch productivity (MCA 87-4-431). The statutes and regulations that govern the industry presume that it is appropriate to permit new operations, with reasonable restrictions to protect Montana's interests in its resident wildlife.

13(e) Montana Fish, Wildlife and Parks and the Montana Department of Livestock acknowledge that the permitting of alternative livestock ranches generates public controversy. The agencies acknowledge that, with the recent occurrence of CWD on another alternative livestock ranch, this permit application may receive additional public scrutiny. However, the agencies also understand that, except for that occurrence of CWD, this particular proposal would be considerably less controversial than other alternative livestock ranches that already have been permitted.

Montana Fish, Wildlife and Parks and the Montana Department of Livestock also acknowledge that there are uncertainties regarding diseases of wildlife and alternative livestock, the identification of infected animals, and the transmissibility of disease. The agencies agree that an outbreak of livestock disease in one or more wildlife populations would be a significant, negative effect. However, with careful attention to current regulations and implementation of the mitigation measures specified in this environmental assessment, [the Dept. of Livestock has concluded] the transmission of disease from animals on the Decker Draw Alternative Livestock Ranch to wildlife would be a very unlikely event."

FWP acknowledges that there presently is not a reliable CWD test for live animals. As a consequence, there is a need to carefully monitor future developments concerning CWD and to adjust the regulation of alternative livestock operations to the extent needed and prudent.

NO ACTION: Potential risks or adverse effects which are uncertain would not occur from the "No Action" alternative, other than those associated with the existing land use.

COMMENTS: None

CUMULATIVE EFFECTS: None

REQUIRED STIPULATIONS: See Fish and Wildlife Section, page 9.

RECOMMENDED MITIGATION MEASURES: See Fish and Wildlife Section, page 9.

PART II. ENVIRONMENTAL REVIEW (CONTINUED)

1. SUMMARY EVALUATION OF SIGNIFICANCE CRITERIA

a. Does the proposed action have impacts that are individually minor, but cumulatively considerable? (A project may result in impacts on two or more separate resources, which create a significant effect when considered together or in total.) No

b. Does the proposed action involve potential risks or adverse effects, which are uncertain, but extremely hazardous, if they were to occur?

Yes. A potential risk or adverse effect, which is uncertain, but extremely hazardous if it were to occur, would be the spread of a disease or parasite from captive elk to wild elk or deer. This risk and appropriate measures to mitigate the risk are discussed in Section 5 (Fish/Wildlife, Section 8 (Risk/Health Hazards) and in Section 13 (Summary Evaluation of Significance).

The recent confirmation of CWD in an elk facility in Montana, and the occurrence of CWD in Oklahoma elk exported from Montana, raises concerns about the potential movement of infected animals and the difficulty in diagnosing the disease in living animals. It is not known how CWD is transmitted, and there is no test for the disease in living animals. Once established, questions remain as to how to effectively eliminate the disease to prevent future contaminations.

On November 11, 1998, the Montana Board of Livestock issued an emergency rule that prevents wild or captive cervids from being imported or transported from a geographic area or alternative livestock facility where CWD is endemic or has been diagnosed. Any imported animals must have resided in the exporting herd for a minimum of 24 months immediately prior to importation, or a satisfactory and complete, documented animal movement history (from birth, farm, or origin) must be furnished. In addition, the rule requires the animals to have undergone CWD surveillance for a period of 24 months.

2. Description and analysis of reasonable alternatives (including the "No Action" alternative) to the proposed action, whenever alternatives are reasonably available and prudent to consider, and a discussion of how the alternatives would be implemented:

"No Action" Alternative: The "No Action" alternative would avoid many of the potential impacts listed above. This site likely would be continued to be managed for timber production. Also, wildlife would not be excluded from using the site.

3. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

This section provides an analysis of impacts to private property by proposed restrictions or stipulations in this EA as required under 75-1-201, MCA and the Private Property Assessment Act, Chapter 462, Laws of

Montana (1995). The analysis provided in this EA is conducted in accordance with implementation guidance issued by the Montana Legislative Services Division (EQC 1996). A completed checklist designed to assist state agencies in identifying and evaluating proposed agency actions, such as imposed stipulations that may result in the taking or damaging of private property, is included in Appendix A. Mitigation measures described in this section address both minor and significant impacts. FWP requires stipulations to mitigate all potentially significant impacts from the Proposed Action. Most potential minor impacts from the Proposed Action are addressed as mitigation measures that are strongly recommended, but not required.

REQUIRED STIPULATION #1

(1) Monitor the perimeter fence on a daily basis and immediately after major snow, wind, and rain events to ensure fence integrity is maintained.

Restriction on Private Property Use

This stipulation does not restrict the use of private property by effectively requiring the proposed facility be monitored at least once daily to ensure fence integrity is maintained. This stipulation supports the current FWP requirement to report ingress/egress events immediately [ARM 12.6.1538].

Alternatives

Do not monitor the perimeter fence on a daily basis or immediately following major snow, wind, and rain events to ensure fence integrity is maintained.

This alternative would not adequately address the potential for ingress/egress at the facility. Ingressing wild animals must be detected and reported immediately to prevent contact with wild game after contact with captive animals. The fence should be inspected daily to adequately monitor for potential problems with fence integrity.

Benefits for Imposing the Stipulation

This stipulation is imposed to mitigate potential risks to wildlife posed by the proposed facility. Information provided by the stipulation would help the applicant and FWP address ingress and egress incidents and minimize contact between wild and captive animals. This stipulation, in addition to existing FWP fencing and wildlife protection requirements, would effectively reduce the risk to wildlife.

Types of Expenditures the Stipulation Would Require

The stipulation to require monitoring of the perimeter fence on a daily basis and immediately following major snow, rain, and wind events to ensure fence integrity is maintained would not impose any additional expenditures beyond those necessary to report ingress/egress events in accordance with ARM 12.6.1538, especially during Phases I and II of this project.

Stipulation's Effect on Property Values

None.

PART III. NARRATIVE EVALUATION AND COMMENT

This proposed alternative livestock ranch is similar in size and scope to most other alternative livestock ranches in northwest Montana. Like most other alternative livestock ranches, a small amount of habitat for wild deer and elk will be lost. Also, like other alternative livestock ranches, there is a public and agency concern regarding the potential for disease transmission to wild populations. This concern has become much more acute following the recent verification of CWD in captive elk near Phillipsburg.

DoL further states:

> "However, there is no credible reason to conclude that the proposed alternative livestock ranch represents any greater risk than other licensed operations in northwest Montana."

PART IV. EA CONCLUSION SECTION

1. Based on the significance criteria evaluated in this EA, is an EIS required? YES / NO If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: No.

The appropriate level of analysis for the Proposed Action is an EA because: the size of the area is relatively small, all impacts of the Proposed Action have been accurately identified in the EA, there are no significant impacts, and all identified impacts would be mitigated to minor or none.

2. Describe the level of public involvement for this project, if any, and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

Upon completion of the Draft EA, a notice is sent to adjoining landowners, local newspapers, and other potentially affected interests, explaining the project and asking for input during a 21-day comment period which extends from February 1, 2000, to February 21, 2000. In addition, a public meeting is planned regarding this proposal for Friday, February 18, 2000, at 7:00 p.m., at FWP's Region 1 office in Kalispell. The Draft EA is also available to the public from the FWP office in Kalispell (ph. 406-752-5501) and through the State Bulletin Board system during the public comment period.

3. **Duration of comment period if any:** 21 days

4. **Name, title, address, and phone number of the person(s) responsible for preparing the EA:**

Montana Fish, Wildlife & Parks

Tim Thier, Wildlife Biologist
P.O. Box 507
Trego, MT 59934
406) 882-4697

Tim Feldner, Manager of Commercial Wildlife Permitting Program
Enforcement Division
1420 E. 6th Avenue
Helena, MT 59620

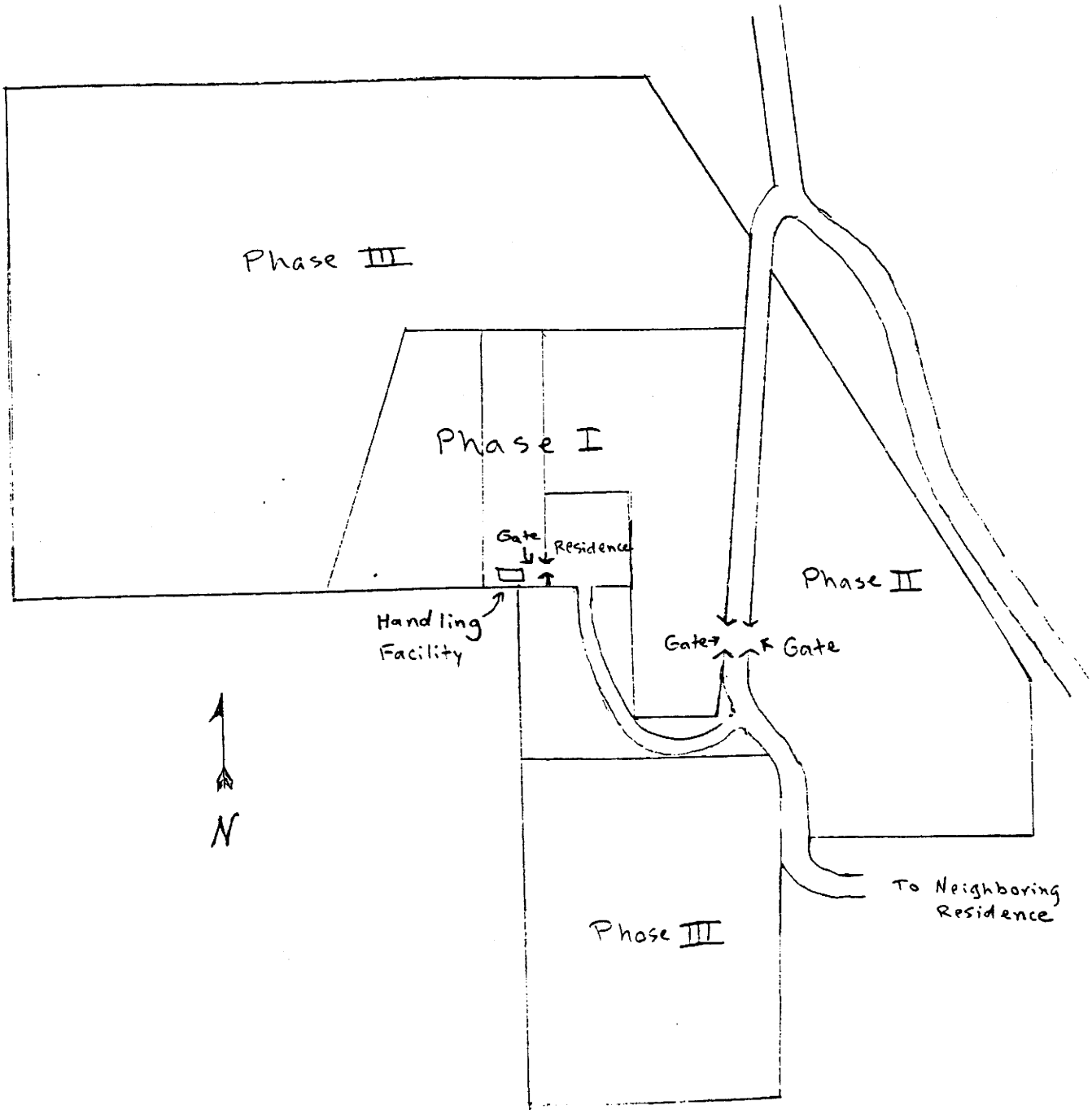
Brian Sommers, Enforcement
FWP, R-1
490 N Meridian Road
Kalispell, MT 59901

Montana Dept. of Livestock

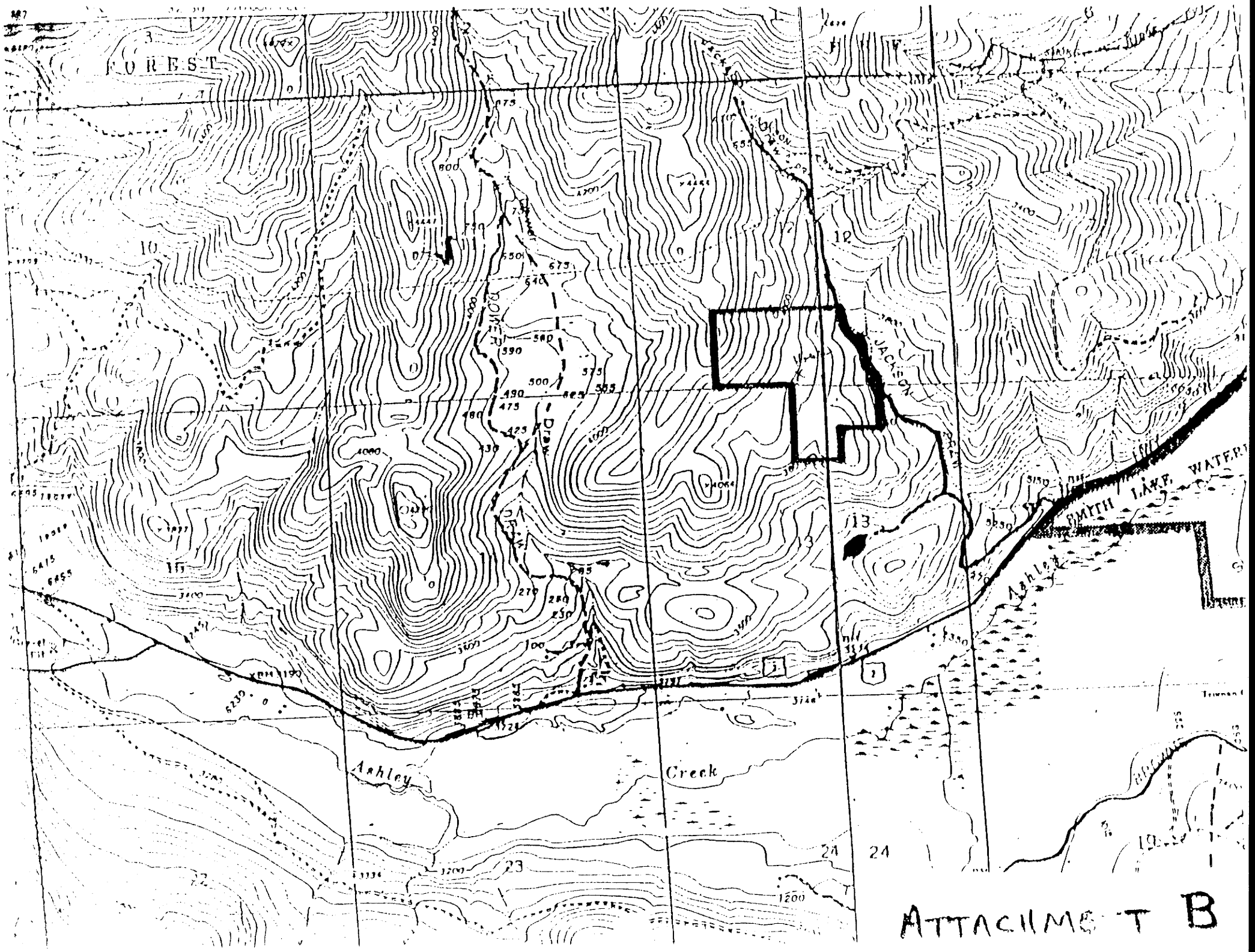
Evaleen Starkel, Alternative Livestock Program Specialist
Dr. Tom Linfield, Assistant State Veterinarian
Animal Health Division
Third Floor, Scott Hart Building
301 Roberts
Helena, MT 59620

Consultants

John Mundinger
Consulting for Creative Solutions, LLC
1414 Hauser Boulevard
Helena, MT 59601



Attachment A. Phases I, II and III of Project Area for Decker's Draw.


FOREST
Ashley
Creek
SMITH LAKE
ATTACHMENT B

January 7, 2000

To: Tim Feldman
From: Donald A. Decker
Re: Decker's Draw game farm application

On November 26, 1999 I met with Tim Thier from the Department of Fish, Wildlife and Parks at my proposed game farm property in Jackson Meadows just west of Kila, MT. The two of us walked the game farm perimeter fence lines and discussed the handling facility, access gates, and fence heights.

This morning I returned Tim's phone call from 1-6-00. He had a few questions concerning my application and suggested I respond to you in written form. The following are his questions/concerns and my responses. I have also included a map of the game farm fence lines and the adjustments I have considered since my first meeting with Mr. Thier. The map and acreage are estimates only at this time; they do take into account the local topography and existing above ground power lines.

1. Describe the phases of the game farm construction in more detail.
   Phase 1 of the game farm construction is to begin soon with estimated completion planned for Spring 2000. This phase will include approximately 11.8 acres. This acreage will include 3-4 fenced pastures and a handling facility with appropriate catch pens. Phase 1 can be identified by the green borders on the accompanying map.
   Phase 2 is planned to be completed in the Spring of 2001. This area will total ~16.6 acres and be divided into one or two pastures. Phase two is defined by the blue borders on the accompanying map.
   Phase 3 will begin during the Spring of 2001 and be done in the Spring of 2002. This area has been decreased in total acreage to take into account the topography and nature of the hillsides and environment. I have estimated the total acreage to be 50.5 acres. The number of pastures within this area is yet to be determined. Red borders delineate phase 3 on the amended maps.

2. Redraw and identify the proposed phases in map-like form.
   Attached is an illustration that shows the original phase plans (on the left) and the amended phase plans (on the right). These adjustments have taken into account property boundaries and setbacks, existing power lines, the slope and terrain of the area, and my private residence. I want to emphasize that this is an estimate only – the borders and acreage are my best guesses at this time.

3. What are your plans for a quarantine facility?
   I am not planning to build a quarantine facility onsite. Grant Spoklie, of Spoklie Elk Ranches, has offered his quarantine facility if the need arises. My handling facility and catch pens will be constructed entirely within one of the phase 1 pastures. Thus, if the need arises, an animal and/or animals will

Attachment C.

easily be isolated within this single pen and handling facility while other animals may be maintained in the other peripheral pastures for the quarantine period.

I hope that these explanations further define the plans for a game farm at Decker' Draw. We look forward to the next step in the application process. Please contact me if additional questions or concerns arise at (406) 755-0615.

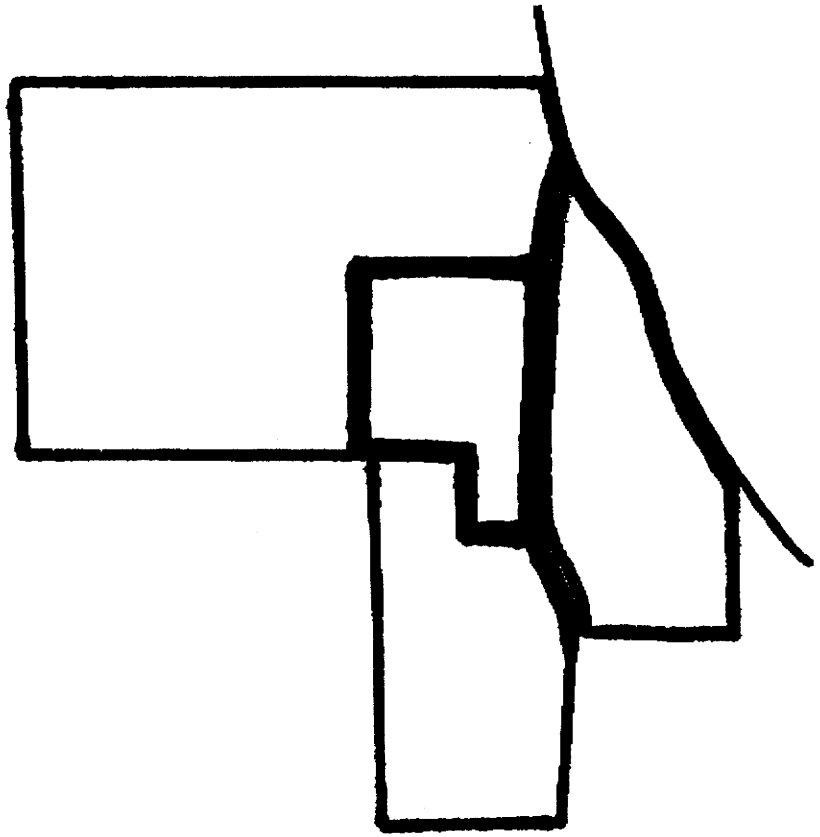
Sincerely,

Donald A. Decker
458 Jackson Meadows Road
P.O. Box 460
Kila, MT 59920

Attachment C (cont.)

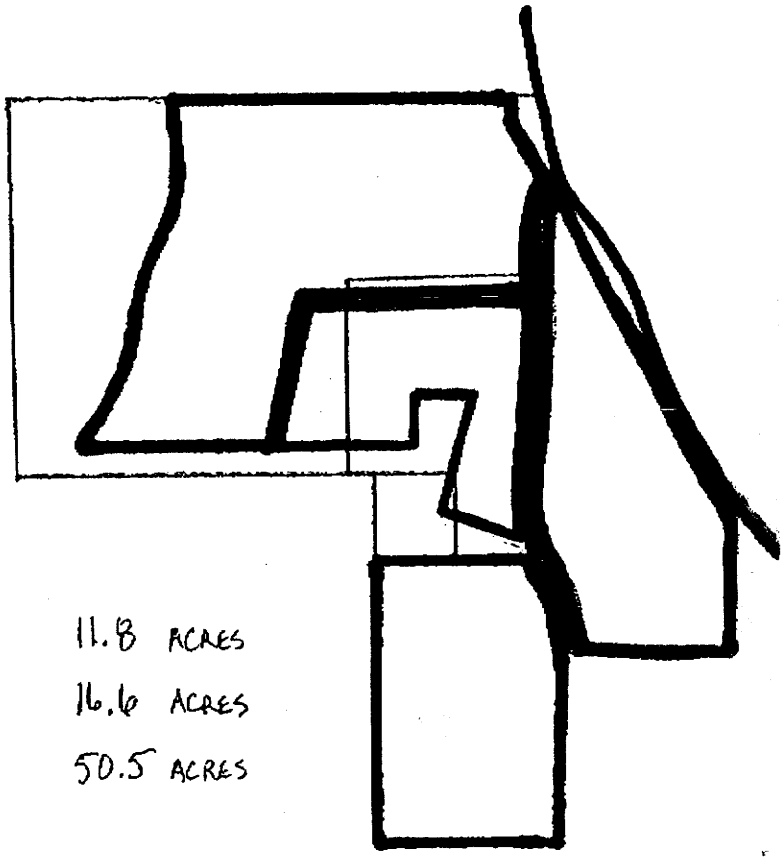
DECKER'S DRAW

JACKSON MEADOWS, KILA



ORIGINAL MAP

AMENDED MAP



PHASE 1:	GREEN BORDERS	11.8 ACRES
PHASE 2:	BLUE BORDERS	16.6 ACRES
PHASE 3:	RED BORDERS	50.5 ACRES

Attachment C (Cont.).

APPENDIX D

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

Monitor the game farm perimeter fence on a daily basis and immediately after major snow, rain, and wind events to ensure fence integrity is maintained.

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES	NO		
___	X___	1.	Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
___	X___	2.	Does the action result in either a permanent or indefinite physical occupation of private property?
___	X___	3.	Does the action deprive the owner of all economically viable uses of the property?
___	X___	4.	Does the action deny a fundamental attribute of ownership?
___	X___	5.	Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO, skip questions 5a and 5b and continue with question 6.]
___	___	5a.	Is there a reasonable, specific connection between the government requirement and legitimate state interests?
___	___	5b.	Is the government requirement roughly proportional to the impact of the proposed use of the property?
___	X___	6.	Does the action have a severe impact on the value of the property?
___	X___	7.	Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO, do not answer questions 7a-7c.]
___	X___	7a.	Is the impact of government action direct, peculiar, and significant?
___	X___	7b.	Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
___	X___	7c.	Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with § 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.